

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

ERICA R. BARRETT, KATHLEEN D.)
VINCENT, CONNIE ENDERLE, EDWARD)
Q. INGERSON, II, PENNY M. KENOYER)
and GILBERT J. ONTIVEROS, individually)
and on behalf of all others similarly situated,)

Plaintiffs,

v.

O'REILLY AUTOMOTIVE, INC., THE)
BOARD OF DIRECTORS OF O'REILLY)
AUTOMOTIVE, INC., O'REILLY)
AUTOMOTIVE 401(K) PLAN)
INVESTMENT COMMITTEE and JOHN)
DOES 1-30,)

Defendants.

Case No. 6:22-cv-03111-JAM

ORAL ARGUMENT REQUESTED

**DEFENDANTS' MOTION TO DISMISS
THE FIRST AMENDED CLASS ACTION COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants O'Reilly Automotive, Inc., ("O'Reilly"), the Board of Directors of O'Reilly Automotive, Inc., The O'Reilly Automotive 401(k) Plan Investment Committee, and John Does 1-30 (collectively, "Defendants") hereby move this Court to dismiss Plaintiffs' Erica R. Barrett, Kathleen D. Vincent, Connie Enderle, Edward Q. Ingerson, II, Penny M. Kenoyer and Gilbert J. Ontiveros (collectively, the "Plaintiffs") First Amended Class Action Complaint (ECF No. 24) with prejudice. The grounds for this motion are set forth in Defendants' Suggestions In Support submitted herewith.

Dated: September 2, 2022

Respectfully submitted,

/s/ James R. Carroll

Charles B. Cowherd Mo. Bar No. 27087

SPENCER FANE LLP

2144 E. Republic Road, Ste. B300

Springfield, Missouri 65804

Telephone: 417-888-1000

Facsimile: 417-881-8035

ccowherd@spencerfane.com

James R. Carroll (admitted *pro hac vice*)

Michael S. Hines (admitted *pro hac vice*)

Mary E. Grinman (admitted *pro hac vice*)

SKADDEN, ARPS, SLATE

MEAGHER & FLOM LLP

500 Boylston Street

Boston, Massachusetts 02116

Telephone: 617-573-4800

Facsimile: 617-573-4822

james.carroll@skadden.com

michael.hines@skadden.com

mary.grinman@skadden.com

Counsel for Defendants

O'Reilly Automotive, Inc., The Board of Directors

of O'Reilly Automotive, Inc., The O'Reilly

Automotive 401(k) Plan Investment Committee, and

John Does 1-30

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically with the United States District Court for the Western District of Missouri, Southern Division, on this 2nd day of September, 2022, with notice of case activity generated and sent electronically to all counsel of record.

/s/ James R. Carroll